

CIVIL SERVICE COMMISSION MINUTES

September 2, 1998

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 309, 734 W. Beech Street, San Diego, California.

Present were:

Gordon Austin, President
Roy Dixon, Vice-President
Gloria Valencia-Cothran
Sigrid Pate

Comprising a quorum of the Commission

Mary Gwen Brummitt being absent

Larry Cook, Executive Officer
Ralph Shadwell, Deputy County Counsel
Joy Kutzke, Reporting

CIVIL SERVICE COMMISSION MINUTES
September 2, 1998

THERE WAS NO CLOSED SESSION AGENDA

2:30 p.m. OPEN SESSION: 734 W. Beech Street, Room 309, San Diego,
California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
5,6,8	7,15,16	9	4

COMMENTS Motion by Valencia-Cothran to approve all items not held for discussion; seconded by Dixon. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda.

THERE WERE NO ITEMS FOR DISCUSSION IN CLOSED SESSION

REGULAR AGENDA

NOTE: Five total minutes will be allocated for input on Agenda Items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the regular meeting of August 19, 1998.

Approved.

CONFIRMATION OF ASSIGNMENT

2. Commissioner Brummitt as hearing officer in the appeal of **Martha Burdette** from an Order of Demotion from the Health and Human Services Agency.

Confirmed.

3. Deborah Olberding, S.E.I.U. Local 2028, on behalf of **Louis Lopez**, an employee in the Department of General Services, appealing his dismissal during probationary period. (See No. 9 below.)

RECOMMENDATION: Deny request.

Staff recommendation approved.

WITHDRAWALS

4. Deborah Olberding, S.E.I.U. Local 2028, on behalf of **Charles Morgan**, appealing an Order of Suspension from the Department of Information Services. The parties entered into an agreement whereby the Department rescinded its Order and employee withdrew his appeal.

Withdrawn.

DISCIPLINARY FINDINGS

5. Commissioner Valencia-Cothran: Everett Bobbitt, Esq., on behalf of **John Kelleher** appealing an Order of Termination from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - failure of good behavior (excessive force); Cause II - conduct unbecoming an officer of the County of San Diego (discourteous and display of unprofessional lack of control); and Cause III - acts which are incompatible with and/or inimical to the public service). Employee was assigned to man a barricaded road block due to a brush fire in northern San Diego County. All vehicles, with the exception of emergency vehicles, were prohibited from passing through the road block. Employee became involved in an incident with a citizen who caused her vehicle to accelerate through the barricades at high speeds in an attempt to reach her residence. The Department contended that Employee used excessive force on the citizen. This hearing officer concluded that there was no objective evidence produced at the hearing to prove misconduct by Employee. Employee is not guilty of Causes I, II and III. It is therefore recommended that the Order of Termination be reversed; that employee be awarded back pay and benefits from the date of termination until the date he is returned to work minus any wages he received from outside employment; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

The matter was discussed by the Commission; the hearing officer responded to questions and provided clarification as queried.

Motion by Valencia-Cothran to approve Findings and Recommendations; seconded by Pate. Carried.

SEPARATIONS

Findings

6. Commissioner Dixon: **Raphael Johnson** appealing an Order of Separation from the Department of General Services.

FINDINGS AND RECOMMENDATIONS:

Employee was separated from his classification of Warehouse Material Handler in the Department of General Services pursuant to Civil Service Rule XIV, Section 14.2.2. Employee had been required by the Department to present medical verification when using sick leave due to excessive usage. Employee embarked on an extended period of absence from work and remained in telephonic contact with the Department daily. Upon his return to work, he failed to have the requested verification and was told to obtain it and return. Employee did not return to work, continued to remain absent and called into work daily usually claiming illness. The Department provided employee with ample warning to provide medical verification and Employee responded with minimal, if any, efforts to verify his alleged illnesses. Employee displayed a general disregard of the potential loss of his job, and general antipathy towards the needs of his employer. This hearing officer concluded that the Department properly separated Employee from his position as Warehouse Material Handler. It is therefore recommended that the Order of Separation be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Dixon to approve Findings and Recommendations;
seconded by Valencia-Cothran. Carried.**

PROCEDURAL INVESTIGATIONS

Complaints

7. **Deborah Olberding**, S.E.I.U. Local 2028, requesting a Rule XI investigation regarding the manner in which EOMO was abolished and the use of the Office of Internal Affairs to investigate discrimination cases.

RECOMMENDATION: Deny request. (Continued from 8/19/98 CSC meeting.)

Continue to next CSC meeting.

COMPULSORY LEAVE

Findings

8. Commissioner Austin: **James Gattey, Esq.**, on behalf of **Joseph Gibbs** appealing an Order of Compulsory Leave from the Sheriff's Department. (Continued from 8/19/98 CSC meeting.)

FINDINGS AND RECOMMENDATIONS:

Mr. Gattey, attorney representing Mr. Gibbs, addressed his concerns regarding confidentiality issues and process as they relate to Compulsory Leave appeals.

Employee was placed on Compulsory Leave on April 16, 1998 from his class and position of Deputy Corrections Officer by the Sheriff's Department. Most of the hearing was closed to the public. As the result of the testimony presented by the parties at the hearing, it is recommended that the Order of Compulsory Leave be reversed; Employee be returned to work immediately; Employee be awarded back pay and benefits from the date he was placed on compulsory leave until the time he is returned to work, minus any wages he received for outside employment; a recommendation be given to the Sheriff to ban the use of administrative assignment in all future employment matters; a recommendation be given to the DHR Director to coordinate with the Sheriff's Department to improve time and other elements related to the Compulsory leave/fitness for duty process; and this proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Austin to approve Findings and Recommendations;
seconded by Valencia-Cothran. Carried.**

DISCRIMINATION

9. Deborah Olberding, Local 2028, on behalf of **Louis Lopez** alleging disability discrimination by the Department of General Services. (See No. 3 above.)

RECOMMENDATION: Assign a Commissioner and concurrently appoint the Internal Affairs Officer as hearing officer for investigation and report back.

Staff recommendation approved. Commissioner Pate assigned as investigative officer.

SELECTION PROCESS FINDINGS/COMPLAINTS

Findings

10. **Shawn Aitken** appeal of removal of his name by DHR from the employment list for Deputy Sheriff-Lateral for failure to meet the employment standards.

11. **Jeremy Sheppard** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff for failure to meet the employment standards.

12. **Carmen Kneile** appeal of removal of her name by DHR from the employment list for Deputy Probation Officer for failure to meet the employment standards.

13. **John T. Senior** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff.

14. **Edward F. Camarena** appeal of removal of his name by DHR from the employment list for Deputy Sheriff.

FINDINGS AND RECOMMENDATION: Ratify Item Nos. 10 through 14. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item Nos. 10 through 14 ratified.

Complaints

15. **Luz Elena Quintanar, Josefina Bularan, Laura Diaz, Joan Durkin and Maria T. Gomez and Maria Quiroz**, employees of Health and Human Services Agency requesting a Rule X Selection Process hearing regarding DHR's determination that they were ineligible to compete for Patient Services Specialist I's and II's.

RECOMMENDATION: Continue to next CSC meeting pending input from the Agency. (Continued from 8/19/98 meeting.)

Staff recommendation approved.

OTHER MATTERS

Performance Appraisals

16. **Patricia Minnich**, an employee of the Health and Human Services Agency, requesting the sealing of her performance appraisal covering the period August 22, 1996 to August 22, 1997.

RECOMMENDATION: Deny request.

Continued to next CSC meeting.

Extension of Temporary Appointments

17. Public Works

1 Analyst III (Suzanne Campos)

18. Planning and Land Use

1 Building Inspector I (Duncan McClane)

RECOMMENDATION: Ratify item Nos. 17 and 18.

Item Nos. 17 and 18 ratified.

19. Public Input.

ADJOURNMENT: 3:25 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE SEPTEMBER 30, 1998.